

DFEH News Brief

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STATE SECURES \$150,000 SEXUAL HARASSMENT SETTLEMENT

Bar owner allegedly sexually assaulted bartender

Elk Grove, CA – The California Department of Fair Employment and Housing (DFEH) today announced the \$150,000 settlement of a lawsuit filed in Kern County Superior Court against the owners of Esquire Cocktail Lounge in Bakersfield, California, for workplace sexual harassment.

The Department alleged that bar-owner David Rubio sexually harassed and assaulted bartender Christina McQuiston, including taking pictures of her without permission; instructing patrons to throw objects on the floor so McQuiston could bend over in front of Rubio to pick them up; repeatedly rubbing her hands; grabbing her by the waist; and purposely obstructing McQuiston's path so he could rub his body against hers. The Department also accused Rubio of grabbing and sexually assaulting McQuiston while she was alone with him in the back office placing glasses in cold storage. When she broke away from Rubio and ran into the bar for help, Rubio allegedly shouted expletives at McQuiston and told her she was fired.

"This case illustrates the Department's commitment to vindicating civil rights, even in the face of bankruptcy," said DFEH Director, Phyllis Cheng. "Egregious violations of employee rights will not be tolerated and must be corrected."

Although the owners of the bar filed for bankruptcy in November 2008, as a condition of settlement, they agreed not to challenge the \$150,000 claim for damages Ms. McQuiston filed with the bankruptcy court, and which has been recorded as a stipulated judgment in the department's Kern County Superior Court case. The DFEH anticipates that McQuiston will receive over \$70,000 from Rubio through bankruptcy payouts. The settlement also required Rubio to undergo two sessions of gender counseling or sensitivity training and post a notice in The Bakersfield Californian stating that a lawsuit was filed against him for sexual harassment. If he should start a business before March 31, 2011, Rubio is also required to develop and post a policy prohibiting sexual harassment in the business he owns and provide sexual harassment prevention training for all employees and managers. In settling the case, Rubio did not admit liability.

The DFEH is the state agency charged with enforcing California's civil rights laws. The mission of the DFEH is to protect the people of California from unlawful discrimination in employment, housing and public accommodations and from hate violence. For more information, visit the Department's Web site at www.dfeh.ca.gov. ###